

Judges Copy

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U.S. DISTRICT COURT
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IOWA, SOUTHERN DIVISION
CENTRAL DISTRICTCLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

WENGER MANUFACTURING, INC.)
a Kansas Corporation,)
Plaintiff,)
vs.) Civil Action No. 4-98-CV90083
COATING MACHINERY SYSTEMS,)
INC., an Iowa corporation, and)
VECTOR CORPORATION,)
Defendants.)
JOINT MOTION FOR ENTRY OF
FINAL JUDGMENT AND
STIPULATION OF DISMISSAL

Pursuant to Federal Rule of Civil Procedure 41, Plaintiff Wenger and Defendants CMS and Vector jointly move the Court to enter final judgment in this case, and stipulate that Defendants' counterclaim for invalidity of the patent-in-suit is dismissed without prejudice. The parties stipulate as follows:

1. On September 30, 1999, the Court issued an order amending its March 31, 1999 order and granted summary judgment in favor of CMS and Vector with respect to Wenger's complaint and amended complaint that CMS and Vector infringed Wenger's Patent No. 5,100,683.

2. CMS and Vector will voluntarily dismiss their counterclaim of invalidity without prejudice. In the event the judgment in favor of CMS on Wenger's patent infringement claim is reversed on appeal, the counterclaim may be reasserted by CMS and Vector in this case and tried together with Wenger's patent infringement claim.

134

3. This stipulation resolves all remaining claims, and the Court may enter final judgment for purposes of appeal.

ZARLEY, McKEE, THOMTE, VOORHEES
& SEASE, P.L.C.

HOVEY, WILLIAMS, TIMMONS &
COLLINS

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IN THE UNITED STATES DISTRICT COURT
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CENTRAL DISTRICT

WENGER MANUFACTURING, INC.)
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Plaintiff,)
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COATING MACHINERY SYSTEMS,)
INC., an Iowa corporation, and)
VECTOR CORPORATION,)
)
Defendants.)

Civil Action No. 4-98-CV90083

FINAL JUDGMENT

Before the Court is the stipulation of the parties for dismissal of the Defendant's counterclaim in this case, and the Joint Motion for Entry of Final Judgment. Having considered the stipulation, the Court agrees that the motion should be GRANTED.

1. It is therefore ORDERED that for the reasons stated in the Court's Order of September 30, 1999, the clerk shall enter judgment of non-infringement in favor of Defendants CMS and Vector and against Plaintiff Wenger on the claims of Wenger's Patent No. 5,100,683.
2. Defendants' counterclaim of invalidity is dismissed without prejudice.
3. All pending motions are hereby withdrawn.
4. Defendants are awarded their costs.
5. This Final Judgment incorporates the Court's orders entered March 31, 1999 and September 30, 1999, granting and denying certain motions for summary judgment. These rulings are, with entry of this order, a final judgment for purposes of appeal.

6. All relief not expressly granted is denied. This is a final judgment for purposes of appeal.

Signed this _____ day of _____, 1999.

Robert W. Pratt
United States District Court Judge

APPROVED AS TO FORM:

ZARLEY, McKEE, THOMTE, VOORHEES
& SEASE, P.L.C.

HOVEY, WILLIAMS, TIMMONS &
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